Amendment to Transfer Pricing Regulation

*622. SHRI K. RAMA MOHANA RAO :

SHRI RAMA MUNI REDDY SIRIGIREDDY :

Will the Minister of FINANCE be pleased to state :

(a) whether it is a fact that the industry is demanding amendments to the Transfer Pricing Regulation Legislation;

(b) if so, the details of demands being made by the industry apart from transfer pricing fine;

(c) whether the Ministry of Finance has issued any guidelines under the Transfer Pricing Regulations; and

(d) if so, the details thereof ?

THE MINISTER OF FINANCE (SHRI JASWANT SINGH) : (a) Yes, Sir.

(b) Various representations have been received from Chambers and Associations demanding amendments to the legislation relating to Transfer Pricing Regulations. Some of the main suggestions, *inter alia*, include,—

(i) For determination of the arm's length price, the Finance Act, 2002 has granted flexibility to taxpayers to adopt any price falling within 5% of the acerage of the prices. It has been suggested that this 5% limit be raised to 10%.

(ii) The scope of definition of 'associated enterprises' should be reviewed.

(iii) In the case of companies where income is computed at a fixed percentage of the receipts, maintenance of detail records/documents should be done away with and transfer pricing regulations should not be made applicable in such cases.

(iv) There should be a specific exception in transfer pricing regulation for capital transactions/transfer of capital assets under a bonafide restructuring exercise.

(v) Taxpayers should be permitted to use any method for computation of arm's length price.

(vi) It may be provided that important confidential information in respect of international transactions, which are required to be maintained, should be allowed to be retained by the assessee after examination and verification by the Assessing Officer.

(c) The transfer pricing rules 10A to 10E of the Income-tax Rules have been prescribed *vide* notification No.S.O.808(E) dated 21.8.2001.

(d) Rules 10A to 10E prescribe the procedure of determination of arm's length price, most appropriate method to be applied, information and documents to be kept and maintained by the assessee and the form of the report from an accountant to be furnished alongwith the return of income.

Working conditions of employees of PSUs

†*627. DR. PRABHA THAKUR : Will the Minister of FINANCE be pleased to state :

(a) whether working conditions of employees working with Public Sector Undertakings will remain unchanged in private companies also in case, Public Sector Undertakings are sold to the private companies; and

(b) if not, the details of the scheme formulated by Government to provide employment to thousands of such workers rendered unemployed ?

THE MINISTER OF FINANCE (SHRI JASWANT SINGH) : (a) and (b) Protection of employees interest is an integral part of the disinvestment policy of the Government. Adequate provisions are made in the Transaction Agreements, executed as a part of strategic sale to ensure protection to employees.

The Agreements provide that there is no retrenchment of employees for one year after disinvestment and even thereafter separation is possible only under the Voluntary Retirement Scheme as applicable under DPE guidelines or the Voluntary Retirement Scheme which was prevailing in the company prior to disinvestment, whichever is more beneficial for the employees.

Comments of UNIDO on FDI

*628. DR. AKHILESH DAS : Will the Minister of FINANCE be pleased to state :

(a) whether Government's attention has been drawn to the statement of the Director General United Nations Industrial Development Organization in New Delhi made on April 1, 2003 to the effect that India could "easily" double its foreign direct investment inflow by bringing about policy changes including labour regulations;

(b) if so, what specific changes in India's policy are sought to be brought about by the UNIDO Chief; and

(c) what is Government's reaction thereto?

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†Original notice of the question was received in Hindi.